

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

**VICTOR SANDOVAL AND
ESMERALDA SANDOVAL**

VS.

ALLSTATE TEXAS LLOYDS

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§

CIVIL ACTION NO. 7:16-cv-00520

JURY DEMANDED

DEFENDANT'S MOTION TO DISMISS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **ALLSTATE TEXAS LLOYDS**, Defendant in the above-styled and numbered cause, and files this Motion to Dismiss for Want of Prosecution pursuant to Federal Rule of Civil Procedure 41(b) and in support thereof would respectfully show unto the court as follows:

I.

This case involves a claim for wind and/or hail damage to Plaintiffs' home as a result of a storm occurring on May 28, 2014. The lawsuit was filed on May 26, 2016 by Attorney R. Kent Livesay. This case is currently set for jury selection and trial on October 3, 2017.

II.

Attorney for Plaintiffs, R. Kent Livesay was allowed to withdraw as counsel of record by court order on February 13, 2017. William McCarthy was allowed to withdraw as counsel of record by court order on February 13, 2017.

III.

Defense counsel has attempted to reach the now Pro Se Plaintiffs via mail correspondence advising of the pending trial setting and whether they intend to continue or dismiss the case. Plaintiffs have not contacted defense counsel concerning their pending case. No attorney has contacted defense counsel on behalf of the Plaintiffs regarding representation of the Plaintiffs. It

does not appear to Defendant that Plaintiffs, Victor Sandoval and Esmeralda Sandoval wish to pursue this matter. Accordingly, Defendant requests that the claims of Victor Sandoval and Esmeralda Sandoval be dismissed for want of prosecution.

WHEREFORE PREMISES CONSIDERED, Defendant, ALLSTATE TEXAS LLOYDS respectfully requests that this Court set this matter for hearing and dismiss this case in its entirety with prejudice for want of prosecution.

Respectfully Submitted,

ROERIG, OLIVEIRA & FISHER, L.L.P.

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/r/ Rosemary Conrad-Sandoval

Rosemary Conrad-Sandoval
Texas Bar No. 04709300

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF CONFERENCE

I, the undersigned, hereby certify that I attempted to confer with Plaintiffs, Victor & Esmeralda Sandoval, by correspondence dated March 30, 2017 and April 25, 2017 regarding the pending motion and lawsuit. No response has been received.

/s/ Rosemary Conrad-Sandoval

ROSEMARY CONRAD-SANDOVAL

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Defendants' Motion to Dismiss for Want of Prosecution has been sent to Pro Se Plaintiff via regular mail and certified mail as follows:

Victor Sandoval & Esmeralda Sandoval
21803 Lee Ann
Elsa, Texas 78543

on this 8th day of June, 2017.

/s/ Rosemary Conrad-Sandoval
ROSEMARY CONRAD-SANDOVAL